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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/098,629	03/18/2002	Ignacy Puskiewicz	3638-28	3711

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EXAMINER

BRAHAN, THOMAS J

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/098,629

Applicant(s)

PUSZKIEWICZ ET AL.

Examiner

Thomas J. Brahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-5, 8, 9, 16-19, 22 and 23 is/are allowed.
- 6) ☒ Claim(s) 1, 6, 7, 10-15, 20, 21 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

2. Claims 1, 6, 7, 10, 12-15, 20, 21 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hatamura in view of Abels et al, as applied in the previous office action. Figure 4 of Hatamura shows the basic claimed pin which detects force components along two perpendicular axes, see column 8, lines 33-36. It teaches the placement of these pins at the boom pivot (116) and the boom lift cylinder pivot (117), see figure 17. Hatamura varies from the claims by not specifying that the pins' signals control the vehicle's driving components based upon a continuous rated capacity to avoid moments leading to instability. Abels et al shows a similar load monitoring system which maintains the loading within predescribed boundaries, see column 4, lines 9-20 to avoid instability (tilting). It would have been obvious to one of ordinary skill in the art to have the load detecting system of Hatamura by having its loading compared with predescribed boundaries, as to have it maintained within safe limits to avoid tipping over, as taught by Abels et al. The boom stability is assessed in two directions. These directions can be considered as forward and backward, as broadly claimed, as the forward and backward directions are undefined within the claims.

3. Claim 11 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Hatamura in view of Abels et al, as applied above to claim 1, and further in view of Miyasaki. Hatamura, as modified, shows the basic claimed load monitoring system. It varies from claim 11 by not having a microprocessor located at the pins. Miyasaki shows a similar a similar load measuring system and teaches placing a microprocessor (41 or 54) at the pin. It would have been obvious to one of ordinary skill in the art to modify the load sensing system of Hatamura by providing the sensor pins with internal microprocessors, for increased accuracy, as taught by Miyasaki.

4. Claims 2-5, 8, 9, 16-19, 22 and 23 are allowable.

5. Applicant's the amendment filed November 12, 2004 specifies that the vehicle stability is in forward and backward directions. However the claims fail to define any directions as forward and as backward. As the references are concerned with lateral stability, as to have stability in two directions, these two directions can be

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considered as forward and backward directions. It is suggested that the applicant have the claims define these directions with respect to the pivot axes of the boom and the cylinder, as forward and aft directions of the vehicle could be rejected using side mounted forked vehicles.

6. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (703) 308-2568. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for all patent applications is (703) 872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas J. Brahan  
Primary Examiner  
Art Unit 3652